

Steve Sisolak
Governor

Richard Whitley, MS
Director



**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

Variance #719

NEVADA STATE BOARD OF HEALTH
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
4150 Technology Way, Suite 300
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning,
Epidemiology and Response
(NAC 440,450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services
(NAC 211, 444, 446, 447, 583, & 585)

Date: July 22, 2021

Name of Applicant: Jerry Hernandez

Phone: 214.632.2687

Mailing Address: 501 Elm Street, Suite 500

City: Dallas

State: TX

Zip: 75202

We do hereby apply for a variance to _____ of the Nevada
chapter/section NAC 449.3154
Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Construction, remodeling, maintenance and change of use

Statement of existing or proposed conditions in violation of the NAC:

This application of variance is for the minimum clearance requirement as stated on the 2018 FGI, section 2.2-3.4.2.2 Space requirements (2)(a) 4 feet (122 centimeters) on all circulating sides of the patient table/bed/couch, gantry or assembly.

The facility is able to comply with items 2, 3, 4 and 5 of the attached re-evaluation letter from Steve Gerleman, dated July 14, 2021. Due to the location of the existing catheterization laboratory room and the room being landlocked, we are unable to meet the minimum clearance of 4 feet on all sides of the catheterization table and gantry. The existing room is 19'- 3 1/2" width by 21'-0" length.. In order to meet the 4 feet clearance, the room would need to increase to 20'-0" width by 21'-6" length at a minimum.

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Date of initial operation (if existing): 2005

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240) Construction: \$100,000, HVAC/Plumbing Upgrades: \$75,000, Architect/Engineer Fees: \$45,000, Soft costs (reimbursable costs, fees): \$10,000 for a **total of \$230,000**

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health

NNRH is the only facility within a 300 mile radius in any direction to provide this level of service to our community and the outlying critical access hospitals (3 in total) within that 300 mile radius. Cardiac re-vascularization is the standard of care to treat an acute patient having a cardiac event (Myocardial infarction or heart attack) and requires a response time of 90 minutes to achieve optimal outcomes to patients morbidity and mortality risk. We can not life flight a patient from our facility in that time frame to get the treatment needed if we do not provide it which ultimately increases all members of our communities risk of long term effects or death from their cardiac event.

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APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

We have been using the same fluoro machine to perform these tests since 2005 and our equipment needs to be replaced. We have purchased this costly equipment due to service and repairs not being able to be completed on our current machine but did not allocate funds for such a large scope of project such as removing an exterior wall that is coded for radiation requirements. We ask for a variance to the specific request to enlarge the footprint of the room due to one side of the table being short on the space requirement in the new code but still allows us to replace our aging equipment to better serve patients in our community.

2. The variance, if granted, would not:
 - A. Cause substantial detriment to the public welfare.

We currently provide services using the older equipment in the existing space and do not foresee any change with the new piece of equipment and its impact on the spaces current footprint. So there is no change in care expectations that would cause any harm or change in the standard of care being provided to the patient. Our lab is an accredited lab by the American College of Cardiology and deemed to provide the highest level of quality care. The newer machine also has a 90% dose reduction to patients and staff than our current machine so this replacement is an enhancement to what we provide in terms of safe risk mitigated care.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

I can only surmise the purpose of this regulation is geared towards providing enough space in an OR room to include a member of anesthesia and their equipment around the tables. In a cath lab suite we have a moving C arm at the head of the bed so there is always a modification to this compared to OR rooms. We do not provide anesthesia cares typically in cath labs as these procedure rooms utilize moderate sedation instead. On the rare occasion we have needed anesthesia services we have been able to provide them without compromising any safety standards or care to the patient.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

1. Legal description of property concerned
2. General area identification map

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APPLICATION FOR VARIANCE

- _ 3. Plat map showing locations of all pertinent items and appurtenances
- _ 4. Well log (if applicable)
- _ 5. Applicable lab reports
- _ 6. Applicable engineering or construction/remodeling information
- _ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing during:



The next regularly scheduled Board of Health meeting, regardless of location.



The next scheduled meeting in Carson City.



The next scheduled meeting in Las Vegas.

Signature: _____



Jerry Hernandez

Printed Name: _____

Sr. Healthcare Designer

Title: _____

July 22, 2021

Date: _____

NEVADA STATE BOARD OF HEALTH
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
4150 Technology Way, Suite 300
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

**PLEASE SUBMIT YOUR APPLICATION FOR VARIANCE BY USING
ANY OF THE FOLLOWING METHODS:**

MAIL TO:

Lisa Sherych, Administrator
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

FAX:

775-687-7570

EMAIL:

DPBH@health.nv.gov

Steve Sisolak
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Chief Medical Officer

NOTICE OF PUBLIC HEARING

NORTHEASTERN NEVADA REGIONAL HOSPITAL IS REQUESTING A VARIANCE, #719, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN that NORTHEASTERN NEVADA REGIONAL HOSPITAL has requested a variance from Nevada Administrative Code (NAC) 449.3154.

A public hearing will be conducted on September 3rd, 2021 at 9:00 am, by the Nevada State Board of Health to consider this request. This meeting will be held via online conference and at physical locations.

Meeting Locations:

- **Red Rock Conference Room,**
Southern Nevada Health District,
280 S. Decatur, Las Vegas, NV 89107
- **4150 Technology Way; Conference Room 303**
4150 Technology Way, Third Floor
Carson City, NV 89706

Join from computer using the meeting link:

<https://zoom.us/j/99339558897?pwd=dis1akphUFNIS1pTUE9BQTBINFRNUT09>

Meeting ID: 993 3955 8897

Passcode: 640932

One tap mobile: +12532158782,,99339558897,,,,*640932# US

Join by Phone:

+1 669 900 9128

Meeting ID: 993 3955 8897

Passcode: 640932

NORTHEASTERN NEVADA REGIONAL HOSPITAL is requesting a variance from NAC 449.3154, which states:

NAC 449.3154 Construction, remodeling, maintenance and change of use: General requirements; prerequisites to approval of licensure. ([NRS 439.200](#), [449.0302](#))

1. Except as otherwise provided in this section, a hospital shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to [NAC 449.0105](#).

2. Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of [NAC 449.0105](#), unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

3. Except as otherwise provided in subsection 4, a hospital shall meet all applicable:

(a) Federal and state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and

(c) Life safety, environmental, health, fire and local building codes,

È related to the construction and maintenance of the hospital. If there are any differences between the state and local codes, the more restrictive standards apply.

4. A hospital which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in [chapter 341](#) of NRS and [chapter 341](#) of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the hospital.

5. A complete copy of the building plans for new construction and remodeling of a hospital, drawn to scale, must be submitted to the entity designated to review such plans by the Division of Public and Behavioral Health pursuant to the provisions of [NAC 449.0115](#). Before the construction or remodeling may begin, plans for the construction or remodeling must be approved by the Division of Public and Behavioral Health.

6. The Bureau shall not approve the licensure of a hospital until all construction has been completed and a survey is conducted at the site. The plan review is only advisory and does not constitute prelicensing approval.

7. Notwithstanding any provision of this section to the contrary, a hospital which was licensed on January 1, 1999, shall be deemed to be in compliance with this section if the use of the physical space in the hospital does not change and the existing construction of the hospital does not have any deficiencies which are likely to cause serious injury, serious harm or impairment to public health and welfare.

(Added to NAC by Bd. of Health by R050-99, eff. 9-27-99; A by R076-01, 10-18-2001; R068-04, 8-4-2004; R122-16, 9-21-2017)

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, 4150 TECHNOLOGY WAY, CARSON CITY, NV

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>

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Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

STEVE.SIMPSON@LPNT.NET

July 14, 2021

Steve Simpson, CEO, Administrator
Northeastern Nevada Regional Hospital
2001 Errecart Blvd.
Elko, Nevada 89801

Dear Mr. Simpson:

An evaluation of the proposed catheterization laboratory equipment replacement has been conducted. The facility and their architect had expressed reluctance to conform to the identified deficiencies in the plan review comment letter(s) and contacted this office requesting this evaluation. This evaluation was conducted to help Northeastern Nevada Regional Hospital (NNRH) determine the appropriate course of action(s) and feasibility on this project for their organization.

The facility had submitted plans on 02/02/2021, for the proposed catheterization laboratory equipment replacement. The plan reviewer's early comments revealed due to Nevada Administrative Code (NAC) 449.3154 requirement for plans submission and use of the current code requirements (The Facility Guidelines Institute, Guidelines for the Design and Construction of Hospitals, 2018 Edition (FGI Guidelines)). The following salient project issues presented:

- 1) Insufficient table and gantry clearances;
- 2) Insufficient number of medical gas outlets;
- 3) Insufficient number of electrical outlets (with two separate electrical supplies);
- 4) Inappropriate access to the system component (equipment) room through the catheterization treatment room;
- 5) The interim catheterization laboratory in the trailer external to the building concerns:
 - a) electrical power to the trailer housing a catheterization lab;
 - b) protective covering of patients to the catheterization trailer;
 - c) water to the trailer for hand washing and wastewater removal from the trailer.

Note #1: A catheterization laboratory is a Class 3 Imaging per Table 2.2-2 of the FGI Guidelines.

Note #2: Please review the plan review comment letters issued to your architect for all items of concern.

Insufficient table and gantry clearances: The evaluation started off with looking at the two catheterization machine room foot prints (Innova IGS 5 (new per plans) and the Innova 4100 IQ (presumed existing with supplemental information provided)) to determine if there was a significant difference between the two machines. When looking at each machine's foot print (stationary and operational) the existing table's operational range was the greater of the two by thirty inches (IGS 5 at 161 inches < model 4100 IQ at 197 inches) and both the new and existing gantry arcs were approximately 61 inches. The proposed catheterization laboratory room size was listed at approximately 18 feet wide by 20 feet in length (360 square feet). The machine's span for the table was approximately 13.5 feet and the gantry span was approximately 12 feet. The minimum clearance areas would be 4 feet on all sides of the catheterization table and gantry, requiring the room's size to be at least 20 feet (width) by 21.5 feet (length). Both the existing and new imaging machines' foot prints are approximately the same and

NNRH Catheterization Laboratory Evaluation
07/14/2021

neither would meet the current clearance requirement without expanding the room. The new machine is requiring additional flooring and ceiling support per the provided plans.

It is perceived by this office that the facility believed that this project was simply an exchange of catheterization laboratory machines. Other than system upgrades (fire sprinklers, piped-in medical gas systems, nurse call systems, etc.) the facility is expected to bring the remodel (adding structural supports) area into compliance with the current code and to submit plans for same.

After further evaluation of the provided plans, it appears possible that the imaging area space(s) could be reconfigured to accommodate the catheterization laboratory code requirements. This is not stated lightly, because we understand other factors present like costs, material, time, and unanticipated imposition changes to the imaging department to accommodate the catheterization laboratory requirements.

We believe that the hospital must bring all non code compliant issues into compliance for this project, as identified with the plan review comments. (For possible consideration, the facility may make this a multi-phased project to stretch it over time to bring the area into compliance and to spread the costs over time. There are pros and cons to this approach.)

If the facility believes there is hardship with meeting one or more items listed in this letter and/or the plan review comment letter(s), the facility may look to the Board of Health (BOH) for possible relief with a variance. See Nevada Revised Statutes (NRS) 439.200.3 for more information.

If you have any questions regarding this matter, please feel free to contact me at (702) 486-6515.

Sincerely,



Steve Gerleman, REHS, MBA, HFIM
Bureau of Health Care Quality and Compliance
For Paul Shubert, Bureau Chief

CC: Jerry Hernandez, 4H Architecture jhernandez@e4harchitecture.com
Gordon Dowell, GCD, Inc Consulting gordon@gcdinc.consulting
Michael Kupper, HFI 3, BHCQC mkupper@health.nv.gov
John Gemar, HFI 3, BHCQC jgemar@health.nv.gov

BEFORE THE STATE BOARD OF HEALTH

IN THE MATTER OF)
NORTHEASTERN NEVADA REGIONAL HOSPITAL)
VARIANCE REQUEST: CASE #719)

The Nevada State Board of Health ("Board"), having considered the application for variance and all other related documents submitted in support of the application in the above referenced matter, makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

1. The Division of Public and Behavioral Health received a request for variance from Nevada Administrative Code (NAC) 449.3154(2).
2. NAC 449.3154(2) states:

Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

NAC 449.0105(1)(c) states:

The State Board of Health hereby adopts by reference:

(c) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://www.fgiguideelines.org/> or by telephone at (800) 242- 2626, for the price of \$200.

Guidelines for Design and Construction of Hospitals (2018 Edition) states:

Section 2.2-3.4.2.2(2)(a) states, “Space shall be provided to accommodate the equipment and staff needed for planning imaging services. (2) Imaging rooms shall be sized to provide the following minimal clearances: (a) 4 feet (122 centimeters) on all circulating sides of the patient table/bed/couch, gantry or assembly.”

3. Northeastern Nevada Regional Hospital is in Elko, Nevada. The facility is a 75 bed rural hospital with a catheterization laboratory imaging room subjugated to Variance #719 to allow the catheterization laboratory imaging room to not have to expand its room size (moving walls) to accommodate the new clearance requirement of four feet around the patient table and gantry.

4. By granting this variance, the hospital would be allowed to continue with the existing clearance around the patient table and gantry of approximately three feet. The replacement catheterization laboratory imaging machine is slightly smaller than the existing catheterization laboratory machine and it would not impair the purpose of the regulation or cause detriment to the public welfare.

5. Compliance with NAC 449.0105(1)(c) would cause exceptional and undue hardship for the applicant. The facility indicated that to enlarge the catheterization laboratory imaging room would cost an estimate of approximately \$230,000.00.

CONCLUSIONS OF LAW

1. This matter is properly before the Nevada State Board of Health pursuant to Nevada Revised Statutes (NRS) 439.200 and determination of the matter on the merits is properly within the subject matter jurisdiction of the board.

2. NRS 439.200 provides:

The State Board of Health may grant a variance from the requirements of a regulation if it finds that:

(a) Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and

(b) The variance, if granted, would not:

(1) Cause substantial detriment to the public welfare; or

(2) Impair substantially the purpose of the regulation.

3. The Board finds that strict application of the regulation would result in an exceptional and undue hardship.

4. The Board finds that granting this variance would not impair the purpose of the regulation or cause a substantial detriment to the public welfare.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing, therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the variance from NAC 449.3154(2) is APPROVED as presented; specifically, the hospital will be allowed to not have to enlarge the catheterization laboratory imaging room to increase the clearances to four feet around the patient table and gantry.

DATED this ____3rd____ day of __September____, 2021

Lisa Sherych, DPBH Administrator,
Secretary Nevada State Board of Health

CERTIFICATE OF MAILING

I hereby certify that I am employed by the Department of Health & Human Services,
Division of Public and Behavioral Health, and that on the _____ day of _____, 2021,
I served the foregoing FINDINGS OF FACT AND DECISION by mailing a copy thereof to:

Northeastern Nevada Regional Hospital

2001 Errecart Blvd.

Elko, Nevada 89801
